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Of Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

BRANDON SEAMSTER,

Plaintiff,

v.

**WASHINGTON COUNTY, and CITY OF
HILLSBORO**

Defendants.

Civil No.: 3:19-cv-01573-AC

**PLAINTIFF'S SECOND AMENDED
COMPLAINT**

Action for Damages for
Negligence; Wrongful Arrest; False
Imprisonment; Assault; Battery; Defamation;
Malicious Prosecution; Failure to Train and
Violation of the Federal 1st, 4th Amendments.

DEMAND FOR JURY TRIAL

Plaintiff Brandon Seamster, through counsel, Jennie L. Clark, complains of Defendant Washington County (hereinafter "Defendant County"), and Defendant City of Hillsboro (hereinafter "Defendant City"). Written consent to Amend the original *Complaint* has been given by both Defendants, attached herein.

1. VENUE

Venue is proper where the acts giving rise to the cause of action occurred, the City of Hillsboro, Washington County, Oregon.

2. PARTIES

Plaintiff, Mr. Brandon Seamster is an African/American male.

3.

Defendant City and Defendant County are duly organized municipal corporations under Oregon law, and public bodies liable for the tortuous conduct of its agents pursuant to ORS 30.260(4) and 30.265(1).

4. PRELIMINARY FACTS

All events referred to herein occurred on or about September 5, 2017, the incident date.

5.

As of September 5, 2017, Plaintiff had no warrants for his arrest nor was he suspected of a crime.

6.

Deputy Jeremy Braun was a uniformed Washington County Sherriff's Office deputy, who was part a joint-agency operation under the umbrella of Washington County's "Tactical Negotiations Team," during the incident giving rise to this complaint.

7.

Deputy Matthew Mintier was a uniformed Washington County Sherriff's Office deputy, who was part a joint-agency operation under the umbrella of Washington County's "Tactical Negotiations Team," during the incident giving rise to this complaint.

8.

Deputy Matthias Brown was a uniformed Washington County Sherriff's Office deputy who was part a joint-agency operation under the umbrella of Washington County's "Tactical Negotiations Team," during the incident giving rise to this complaint.

9.

Officer Charles Wujcik was a uniformed Beaverton Police Department officer who was part a joint-agency operation under the umbrella of Washington County's "Tactical Negotiations Team," during the incident giving rise to this complaint.

10.

Officer Justin Hubbenette was a uniformed Hillsboro Police Department officer who was part a joint-agency operation under the umbrella of Washington County's "Tactical Negotiations Team," during the incident giving rise to this complaint.

11.

The incident occurred at Plaintiff's place of employment - Priority Moving Services at 560 SE 4th Ave. Hillsboro, OR 97123

12.

Roberta Monckton drove Mr. Seamster to work on September 5, 2017 and was a witness to the incident.

13.

Mr. Alexander Gonzales drove a Dodge Ram pick-up truck, (hereinafter "truck") with Oregon Plate Number 378 CCP which was the apparent targeted vehicle of the join-agency operation.

14.

Carlos Gonzales, Joe De La Cruz, and Diana Molina-Cortez were the other occupants of the truck driven by Mr. Alexander Gonzales.

15.

Mr. Joe De La Cruz, Mr. Alexander Gonzales and Ms. Molina-Cortez are also Plaintiff's coworkers.

16.

Deputies and Officers listed herein followed Plaintiff's co-workers listed herein from 3022 SE 38th Ct. Hillsboro, OR 97123 to Plaintiff's place of work.

17.

Alan De La Cruz, Mr. Joe De La Cruz's brother was the intended target of the traffic stop and the arrest warrant later served on 3022 SE 38th Ct. Hillsboro, OR 97123, his home address. Anthony Stroh, Cathie Ropti, Gustavo Becerra, and Katlin Salas were the occupants of 3022 SE 38th Ct. Hillsboro, OR 97123 when the search warrant was served.

18.

Plaintiff was just stepping out of his place of work to greet his co-workers when he saw law enforcement vehicles pull up behind his co-worker's vehicle.

19. FACTS

Without warning, someone identified as Deputy Brown threw a flash-bang grenade at Plaintiff. Dodging the explosion, Plaintiff quickly ducked back into the garage door of his place of employment.

20.

Multiple Officers were yelling at the occupants of the truck, commanding them to get on the ground.

21.

From inside the shop, Plaintiff encouraged the occupants to follow the officers' instructions.

22.

Plaintiff, with his hands over his head, stepped out of the garage door and into view of the officers.

Plaintiff yelled at the officers about throwing a grenade and told them to leave.

23.

Plaintiff then received contradictory orders. Officer Charles Wujcik gave commands to Plaintiff to go back in the garage, while Deputy Jeremy Braun commanded him to move toward his location.

24.

Plaintiff, following Deputy Braun's command, began walking toward him, with multiple commands still being shouted at him.

25.

Plaintiff yelled that he "was going to sue..."

26.

At this point, Deputy Braun, using several factors including the fact that Plaintiff was yelling... [and] overtly angry about the police contact," determined that it was proper to "...trip (Plaintiff)backward and force him on the ground on his face." Deputy Braun then "forced" Plaintiff's arms behind his back handcuffing him.

27.

After hearing the explosion of the flash-bang grenade, Ms. Monckton returned to the scene and witnessed multiple officers pointing fire arms, including M-4 carbine assault rifles, at Plaintiff and the occupants of the truck.

28.

Frantic and concerned about Plaintiff's well-being, she pled with the officers not harm him. At least one officer, told her to "shut-up." Deputy Braun escorted Plaintiff to the back of Officer Wujcik's vehicle, where Deputy Minter secured him.

29.

Plaintiff repeatedly asked the officers why he was being arrested, he was only told to "shut up."

30.

Deputy Mintier repeatedly pummeled Plaintiff with elbow and knee strikes, with the intent to purposely cause him pain.

31.

Ms. Monckton continued to ask the officers why Mr. Seamster was being arrested, an unknown officer or deputy responded by asking "why are you defending a rapist?"

32.

Deputy Mintier then grabbed Mr. Seamster's neck and head "Thai Clinch style" and moved him to the back of Officer Hubbenette's Hillsboro Police Department patrol car.

33.

Mr. Alexander Gonzales, Mr. Carlos Gonzales, Mr. Joe De La Cruz, and Ms. Molina-Cortez were all released. At this point the officers realized that the focus of the operation, Mr. Alan De La Cruz, had not been in the truck.

34.

Plaintiff was transported by Officer Hubbenette to the Washington County Jail, arriving at approximately 11:00 AM. Mr. Seamster was not booked until 6:30 PM.

35.

Plaintiff was charged with interfering with a police officer, resisting arrest, and assault of a law enforcement animal.

36.

The Washington County District Attorney's office declined to prosecute, and no case was filed.

37. RESPONDEAT SUPERIOR

Under the doctrine of *Respondeat Superior*, Washington County and The City of Hillsboro are responsible for all officers and/or deputies mentioned herein because all officers and/or deputies either worked for the Hillsboro Police Department, the Washington County Sheriff's Office, or were under the supervision of the Washington County's Tactical Negotiation Team working within the scope and authority of their employment and/or agency under the color of law.

38. TORT CLAIM NOTICE

Timely Tort Claim Notice under ORS 30.275 was submitted to Defendant City, and Defendant County on February 27, 2018. Receipt of such notice was acknowledged by both public bodies on March 13, 2018 denying liability and showed indifference to the violation of Plaintiff's rights.

39. 1st CAUSE OF ACTION: UNREASONABLE SEIZURE OF PERSON

(FEDERAL- FOURTH AMENDMENT; 42 U.S. CODE § 1983)

Washington County and City of Hillsboro

Plaintiff re-alleges and incorporates paragraphs 4, 6, 8, 10, 11, 26, 36, and 37.

40.

Deputy Braun, Deputy Mintier, and Officer Hubbenette intentionally seized Plaintiff by handcuffing him. The seizure was unreasonable and violated his 4th amendment rights because he was arrested without a warrant nor probable cause that he had committed a crime.

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41. 2nd CAUSE OF ACTION: EXCESSIVE USE OF FORCE
(FEDERAL- FOURTH AMENDMENT; 42 U.S. CODE § 1983)

Washington County Only

Plaintiff re-alleges and incorporates paragraphs 4, 8, 11, 19, 36, and 37.

42.

There was no probable cause Plaintiff had committed a crime, no amount of force was reasonable when Deputy Brown initiated contact by throwing a flash-bang grenade at Plaintiff.

43. 3rd CAUSE OF ACTION: EXCESSIVE USE OF FORCE
(FEDERAL- FOURTH AMENDMENT; 42 U.S. CODE § 1983)

Washington County Only

Plaintiff re-alleges and incorporates paragraphs 4, 6, 11, 36, and 37.

44.

There was no probable cause Plaintiff had committed a crime, no amount of force was reasonable when Deputy Braun tripped Plaintiff backwards causing him to land on his face.

45. 4th CAUSE OF ACTION: EXCESSIVE USE OF FORCE
(FEDERAL- FOURTH AMENDMENT; 42 U.S. CODE § 1983)

Washington County Only

Plaintiff re-alleges and incorporates paragraphs 4, 7, 11, 30, 32, and 37.

46.

Since there was no probable cause Plaintiff had committed a crime, no amount of force was reasonable when Deputy Mintier struck Plaintiff with knee and elbow strikes and grasped Plaintiff's his neck grasped "Thai Clinch" style.

**47. 5th CAUSE OF ACTION: INFRINGEMENT OF FREE SPEECH
(FEDERAL- FIRST AMENDMENT; 42 U.S. CODE § 1983)**

Washington County Only

Plaintiff re-alleges and incorporates paragraphs 4, 6, 11, 26, 36, and 37.

48.

Plaintiff exercised his right to speech when Deputy Braun chose, based on several factors including "...the fact that Mr. Seamster was yelling... [and] overtly angry about the police contact," to trip Plaintiff backwards in order to purposefully make him fall on his face. The chilling of Plaintiff's right to free speech was violated by these actions.

**49. 6th CAUSE OF ACTION: FAILURE TO TRAIN
(42 U.S. CODE § 1983)**

Washington County and City of Hillsboro

Plaintiff re-alleges and incorporates paragraphs 4-37

50.

Defendant County and Defendant City failed to adequately train their officers when it is acceptable policy to initiate contact with innocent civilians by throwing a flash-bang grenade at them. No officer or deputy protested the fact that contact was initiated with Plaintiff by throwing a flash-bang grenade at him. Tort Claim Notice acknowledgment letters received from Defendant County and Defendant City indicated that they were indifferent to the violation of Plaintiff's rights.

51. 7th CAUSE OF ACTION: CAUSE OF ACTION: NEGLIGENCE (STATE)

Washington County Only

Plaintiff re-alleges and incorporates paragraphs 4, 8, 11, 19, 36, and 37.

52.

Deputy Brown failed to use reasonable care when he initiated contact by throwing a flash-bang grenade.

53. 8th CAUSE OF ACTION: CAUSE OF ACTION: NEGLIGENCE (STATE)

Washington County Only

Plaintiff re-alleges and incorporates paragraphs 4, 6, 11, 27, 36, and 37.

54.

Deputy Braun failed to use reasonable care when he tripped Plaintiff backward and causing him to land on the ground on his face and handcuffed him behind his back.

55. 9th CAUSE OF ACTION: CAUSE OF ACTION: NEGLIGENCE (STATE)

Washington County Only

Plaintiff re-alleges and incorporates paragraphs 4, 7, 11, 30, 32, 36, and 37.

56.

Deputy Mintier failed to use reasonable care when he kned and elbowed Plaintiff and used a “Thai Clinch” around his neck while Plaintiff was handcuffed.

57. 10th CAUSE OF ACTION: CAUSE OF ACTION: WRONGFUL ARREST (STATE)

Washington County Only

Plaintiff re-alleges and incorporates paragraphs 4, 10, 11, 34, 36, and 37.

58.

Officer Hubbenette wrongfully arrested Plaintiff by intentionally transporting him, without a warrant and without probable cause, to the Washington County Jail.

59. 11th CAUSE OF ACTION: FALSE IMPRISONMENT (STATE)

Washington County and City of Hillsboro

Plaintiff re-alleges and incorporates paragraphs 4-11, 36, and 37.

60.

Officer Hubbenette along with other Washington County employees and/or agents acting under color of law unlawfully, without probable cause that a crime had been committed, intentionally restrained Plaintiff's freedom of movement with his knowledge by handcuffing him, transporting him and placing him in a holding cell.

61. 12th CAUSE OF ACTION: ASSAULT (STATE)

Washington County Only

Plaintiff re-alleges and incorporates paragraphs 4, 8, 11, 19, 36, and 37.

62.

Deputy Brown attempted to cause harmful or offensive physical contact with Plaintiff or intentionally caused Plaintiff to fear immediate harmful offensive contact when he initiated contact with Plaintiff by throwing a flash-bang grenade within several feet of Plaintiff.

63. 13th CAUSE OF ACTION: ASSAULT (STATE)

Washington County and City of Hillsboro

Plaintiff re-alleges and incorporates paragraphs 4-11, 26, 36, and 37.

64.

Plaintiff reasonably feared immediate harmful contact when Multiple officers approached Plaintiff with guns drawn while loudly shouting multiple contradictory orders at him.

65. 14th CAUSE OF ACTION: BATTERY (STATE)

Washington County Only

Plaintiff re-alleges and incorporates paragraphs 4, 7, 8, 11, 30, 32, 36, and 37.

66.

Deputy Braun and Deputy Mintier intended and caused harmful physical contact with Plaintiff without reasonable justification when he when he did the following:

- Pushed Plaintiff backwards causing Plaintiff's face to hit the pavement.
- Elbowed and kneed Plaintiff
- Used a "Thai Clinch" around Plaintiff's neck.

67. 15th CAUSE OF ACTION: LIABILITY: MALICIOUS PROSECUTION (STATE)

Washington County Only

Plaintiff re-alleges and incorporates paragraphs 4-11, and 34-37.

68.

Washington County by and through its employees and/or agents acting under color of law committed malicious prosecution against Plaintiff when:

- A. They knowingly initiated false criminal charges against Plaintiff when they charged him with interfering with a police officer resisting arrest, and assault of a law enforcement animal;
- B. Washington County declined to prosecute Plaintiff;
- C. Plaintiff sustained injury/damages by as a result of his arrest based upon the false criminal charges.

69. 16th CAUSE OF ACTION: LIABILITY: DEFAMATION (STATE)

Washington County and/or City of Hillsboro

Plaintiff re-alleges and incorporates paragraphs 4-11, 31, 36, and 37

70.

An unknown officer or deputy of Defendant County and/or Defendant City falsely stated with reckless disregard that Plaintiff was a “rapist” to Ms. Monckton who heard the statement and understood it to be defamatory. Calling someone a rapist by its nature is a statement that tends to harm a person’s reputation.

71. ECONOMIC DAMAGES (Past Medical)

Washington County Only

As a result of the 4th, 2nd, 3rd, and 14th causes of action listed above, Plaintiff suffered physical injuries. Plaintiff seeks \$2,180.55 in economic damages for past medical expenses.

72. ECONOMIC DAMAGES FOR EXPUNGEMENT

Washington County Only

As a result of his wrongful arrest (14th Cause of Action), Plaintiff’s must file an expungement through the Washington County Circuit Court to prevent employment and housing discrimination and general loss of her reputation based upon her arrest. Fees and costs are \$850.00 Therefore, Plaintiff seeks \$850.00 for expunction fees.

73. ECONOMIC DAMAGES (Summary)

Washington County Only

Plaintiff seeks \$2,180.55 for past medical treatments and \$850.00 for expunction of arrest record for a total of \$3,030.55 in incident-related expenses.

74. ECONOMIC DAMAGES (Future Medical)

Plaintiff needs future counseling treatment in an amount to be determined.

75. NON-ECONOMIC DAMAGES

Washington County and City of Hillsboro

Based on all the Causes of Action, Plaintiff incurred fear, pain, suffering and loss of freedom of movement, therefore Plaintiff seeks non-economic damages of at least \$100,000.00.

76. ATTORNEY FEES (Federal Claims Only)

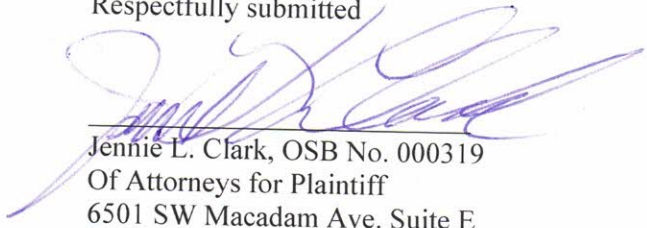
Pursuant to 42 USC 1988, Plaintiff is entitled to recover his reasonable attorney's fees and costs.

77. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendant for Plaintiff's economic damages of \$3,030.55, non-economic damages in a reasonable amount not to exceed \$100,000.00 and punitive damages in an amount to be determined by the jury. Plaintiff also seeks costs, disbursements on all causes of action and attorney's fees in relation to all Federal claims contained herein and any other relief that the Court deems just and equitable.

Signed and dated this ____ day of _____ 2019.

Respectfully submitted



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